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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/576,232

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Mitsuhiro Hamashima

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ROSSI, KIMMS & McDOWELL LLP.
20609 Gordon Park Square, Suite 150
Ashburn, VA 20147

EXAMINER

CHACKO, SUNIL

ART UNIT

PAPER NUMBER

2625

NOTIFICATION DATE

DELIVERY MODE

02/04/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail@rkmlegalgroup.com

Office Action Summary	Application No. 10/576,232	Applicant(s) HAMASHIMA ET AL.	
	Examiner SUNIL CHACKO	Art Unit 2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-27 and 43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-27 and 43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/22/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. Applicant's request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/23/2009 has been entered.

2. The information disclosure statement (IDS) submitted on June 22, 2009. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Amendment

3. Applicant's amendment filed on 10/23/2009 has been entered. Claims 22-27 & 43 have been amended. Claims 1-21 & 28-42 have been canceled. No new Claims have been added. Claims 22-27 & 43 are still pending in this application, with claims 25, 27, & 43 being independent.

4. Examiner has noted the mistake in the PTO-Form 892 citing US-7,301,644 B2 and has resubmitted the 892 with the patent number corrected.

Response to Arguments

5. Applicant's arguments with respect to claims 22-24, 27, & 43 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claim 43 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 43 are drawn to functional descriptive material NOT claimed as residing on a computer readable medium. MPEP 2106.IV.B.1(a) (Functional Descriptive Material) states:

"Data structures not claimed as embodied in a computer-readable medium are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer."

"Such claimed data structures do not define any structural or functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized."

Claim 43 use the term recording medium, a *recording medium* is defined in the specifications a "computer-readable medium " as a flash drive or "the like"; or the like

Art Unit: 2625

can range from paper on which the program is written, to a program simply contemplated and memorized by a person and is thus non-statutory.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 22-25, 27, & 43 are rejected under U.S.C. 103(a) as being unpatentable over Ferlitsch (US Patent #6,943,905 B2) in view of Ishii et al. (US Patent 5,598,279) in further view of Kuo (US Patent 5,513,013)

As to Claim 25

Art Unit: 2625

Ferlitsch teaches *an image printing system having a plurality of image output apparatuses*, (Ferlitsch teaches a printing system with a plurality of printers, see column 4 lines 35-39)

- *each apparatus having an input element for inputting image data*, (Ferlitsch teaches a computing devices that provides the printers with printing data, see column 8 lines 22-25)
- *an instruction element for instructing by an operator to print out, a printing element for printing out image data using a printing device*, (Ferlitsch also teaches that the computing device is capable of initiating a print job to a printing device, see column 8 lines 22-26)
- *an assigning element for assigning the image data to the printing device of at least one of the image output apparatuses; and* (Ferlitsch teaches that a virtual printer driver determines and selects which of the output devices the print job will be sent to, see column 8 lines 32-37)

Ferlitsch teach that his printing system can consists of a plurality of image out apparatus, but he does not explicitly go into detail about each printer specifications.

Ferlitsch does not explicitly teach the following limitations:

- *and removal opening corresponding to the printing device, comprising:*
- *a printed item conveying device for conveying printed items to the removal opening of the image output apparatus instructed by the operator.*

Printing devices with a removal opening and the ability to convey printed items to the desired openings and trays are well known in the art. Ishii et al. teaches an apparatus

Art Unit: 2625

image outputting device with such features, See columns 6 lines 30-37. It would have been obvious to one skilled in the art, at the time of the invention to combine Ferlitsch in view of Ishii et al. so that each of Ferlitsch's printers would have the ability to sort printed items in an organized manner making the collecting the prints for the user efficient.

As to Claim 22 (which depends on Claim 25)

Ferlitsch in view Ishii et al further teaches *an image printing system,*

- *wherein the assigning element preferentially assigns the image data to be printed to the printing device that has printed out the least number of image data among the printing devices.* (Ferlitsch teaches a print driver which selects a printing apparatus as result of the various printers status, it is well know in the art to check the status of a printer's ink level, in the case where a printer runs out of ink and its status reveals this, the virtual printer would choose a printer that has more ink, in this case it would be the printer that printed the least number of image data, see column 8 lines 55-64)

As to Claim 23 (which depends on Claim 25)

Ferlitsch in view Ishii et al further teaches *an image printing system,*

- *wherein the assigning element assigns the same image data to the same printing device* (Ferlitsch teaches that the virtual print driver sends or assigns print data to the chosen printing apparatus, see column 8 lines 55-60).

As to Claim 24 (which depends on Claim 25)

Ferlitsch in view Ishii et al further teaches *an image printing system,*

- *wherein the assigning element assigns a smaller percentage of image data to a certain printing device than to other printing devices.* (Ferlitsch teaches a print driver which selects a printing apparatus as result of printer status, in the case where one of the printers status is turned off print jobs would not be sent to this printer causing a that printer to be assigned a smaller percentage of jobs, see column 8 lines 55-64)

As to Claim 27

Ferlitsch teaches *an image output method performed by an image printing system*

having a plurality of image output apparatuses, (Ferlitsch teaches a printing system with a plurality of printers, see column 4 lines 35-39)

- *each apparatus having an input element for inputting image data,* (Ferlitsch teaches a computing devices that provides the printers with printing data, see column 8 lines 22-25)
- *an instruction element for instructing by an operator to print out, a printing element for printing out image data using a printing device,* (Ferlitsch also teaches that the computing device is capable of initiating a print job to a printing device, see column 8 lines 22-26)

Art Unit: 2625

- *assigning the image data to the printing devices of at least one of the image output apparatuses; and*(Ferlitsch teaches that a virtual printer driver determines and selects which of the output devices the print job will be sent to, see column 8 lines 32-37)

Ferlitsch teach that his printing system can consists of a plurality of image out apparatus, but he does not explicitly go into detail about each printer specifications.

Ferlitsch does not explicitly teach the following limitations:

- *and a removal opening corresponding to the printing device, comprising:*
- *conveying printed items to the removal opening of the image output apparatus instructed by the operator.*

Printing devices with a removal opening and the ability to convey printed items to the desired openings and trays are well known in the art. Ishii et al. teaches an apparatus image outputting device with such features, See columns 6 lines 30-37. It would have been obvious to one skilled in the art, at the time of the invention to combine Ferlitsch in view of Ishii et al. so that each of Ferlitsch's printers would have the ability to sort printed items in an organized manner making the collecting the prints for the user efficient.

As to Claim 43

Ferlitsch teaches *a recording medium on which is recorded a program which causes a computer to function as an image printing system, having a plurality of image output*

Art Unit: 2625

apparatuses, (Ferlitsch teaches a printing system with a plurality of printers, see column 4 lines 35-39 & column 6 lines 8-11)

- *each apparatus having an input element for inputting image data*, (Ferlitsch teaches a computing devices that provides the printers with printing data, see column 8 lines 22-25)
- *an instruction element for instructing by an operator to print out, a printing element for printing out image data using a printing device*, (Ferlitsch also teaches that the computing device is capable of initiating a print job to a printing device, see column 8 lines 22-26)
- *an assigning element for assigning the image data to the printing device of at least one of the image output apparatuses; and* (Ferlitsch teaches that a virtual printer driver determines and selects which of the output devices the print job will be sent to, see column 8 lines 32-37)

Ferlitsch teach that his printing system can consists of a plurality of image out apparatus, but he does not explicitly go into detail about each printer specifications.

Ferlitsch does not explicitly teach the following limitations:

- *and removal opening corresponding to the printing device, wherein the image printing system comprises:*
- *a printed item conveying device for conveying printed items to the removal opening of the image output apparatus instructed by the operator.*

Printing devices with a removal opening and the ability to convey printed items to the desired openings and trays are well known in the art. Ishii et al. teaches an apparatus

Art Unit: 2625

image outputting device with such features, See columns 6 lines 30-37. It would have been obvious to one skilled in the art, at the time of the invention to combine Ferlitsch in view of Ishii et al. so that each of Ferlitsch's printers would have the ability to sort printed items in an organized manner making the collecting the prints for the user efficient.

11. Claim 26 is rejected under U.S.C. 103(a) as being unpatentable over Ferlitsch (US Patent 6,943,905 B2) in view of Ishii et al. (US Application 5,598,279) in further view of Kuo (US Patent # 5,513,013).

As to Claim 26 (which depends on Claim 25)

Ferlitsch in view Ishii et al does not explicitly teach *an image printing system,*

- *further comprising a removal-opening open close element for opening an open and close flap of the removal opening of the image output apparatus instructed by the operator and closing those of all other removal openings.*

However, Kuo teaches a Facsimile output job sorting unit that is capable of closing all bins or flaps so that all the output will exit out on open flap, or bin, See Fig 8 and see column 21 lines 40-45. It would have been obvious, at the time of the invention, to one of ordinary skill in the art to combine, Ferlitsch in view of Ishii and in further view of Kuo because combining the three inventions would ensure a multiple integrated machine

Art Unit: 2625

that would provide customers an efficient mechanism for storing and sorting a large print job.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUNIL CHACKO whose telephone number is (571)270-7221. The examiner can normally be reached on Mon-Thurs 8AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benny Q. Tieu can be reached on 571-272-7490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SUNIL CHACKO/
Examiner, Art Unit 2625

Application/Control Number: 10/576,232
Art Unit: 2625

Page 12

/David K Moore/

Supervisory Patent Examiner, Art Unit 2625